

681—7.6(262) Contract compliance.

7.6(1) Equal employment opportunity. The state board of regents and the institutions under its jurisdiction are responsible for the administration and promotion of equal opportunity in contracts and services and the prohibition of discriminatory and unfair practices within any program administered by institutions under the board of regents receiving or benefiting from state financial assistance in whole or in part. Every official responsible to the board of regents who is authorized to make contracts or subcontracts for construction or for goods or services shall cause to be inserted into every such contract or subcontract a clause in which the contractor or subcontractor is prohibited from engaging in discriminatory employment practices forbidden by federal and state laws, executive orders, and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action. These contractual provisions shall be fully enforced. Any breach of them shall be regarded as a material breach of contract.

a. Compliance shall be determined by an evaluation of a contractor's employment policies and practices and shall depend on an analysis of all relevant factors, including the following:

- (1) The contractor's publicly stated and posted policy regarding equal opportunity employment.
- (2) The contractor's external dealings with unions, employment agencies, newspapers, and other sources of employees.
- (3) The methods by which and places where the contractor seeks to recruit employees.
- (4) The contractor's use of tests and qualifications for positions which are job-related and not culturally biased.
- (5) Classification and compensation plans which apply equally to all employees.
- (6) Training programs which provide all persons including those in the protected classes with an equal opportunity to qualify for employment and advancement.
- (7) The contractor's active support of local and national community action programs.
- (8) The effectiveness of the contractor's affirmative action program as evidenced, in part, by the number or percentage of persons of the protected classes employed at all levels, taking into account the geographical locations of the contractor's work force.

b. The judgment regarding compliance shall be favorable if it is determined that the contractor is working affirmatively toward extending opportunities for members of the protected classes and is not discriminating against these persons. Contractors must be able to demonstrate that their affirmative action program is productive.

7.6(2) Procedures. Any individual aggrieved by a contractor's alleged noncompliance with the board of regents equal opportunity policy may file a complaint with the institutional office designated for receiving and investigating complaints of discrimination. Complaints shall be investigated in accordance with established institutional policies and procedures and shall take into consideration the compliance factors in subrule 7.6(1).

7.6(3) Bidding requirement. All construction specifications shall include, in the "instruction to bidders," the following paragraph: "Bidders shall file with each bid a completed board of regents equal employment opportunity data reporting form as included in the specifications or certify on the certificate of reporting that they have filed their annual equal employment opportunity data reporting form with the board of regents equal opportunity compliance office."

[ARC 5949C, IAB 10/6/21, effective 11/10/21]